

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 32**

**USFALCON, INC.**

**Employer**

**and**

**Case 32-RD-222832**

**THOMAS FRANCES LYNN**

**Petitioner**

**and**

**INTERNATIONAL ASSOCIATION OF  
MACHINISTS AND AEROSPACE WORKERS,  
LOCAL LODGE 2228, DISTRICT LODGE 725,  
AFL-CIO**

**Union**

**DECISION AND DIRECTION OF ELECTION**

Upon a petition filed under Section 9(c) of the National Labor Relations Act, a hearing was held before a hearing officer of the National Labor Relations Board. Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record in this proceeding, the undersigned finds<sup>1</sup>:

1. The hearing officer's rulings are free from prejudicial error and are affirmed.
2. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction.<sup>2</sup>
3. The incumbent Union is a labor organization within the meaning of Section 2(5) of the Act and claims to represent certain employees of the Employer.

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<sup>1</sup> The International Association of Machinists And Aerospace Workers, Local Lodge 2228, District Lodge 725, AFL-CIO did not appear at the hearing. The record establishes that the Union was properly served with the Petition and Notice of Representation Hearing in this matter. No request for postponement was received. No party filed a brief in this matter.

<sup>2</sup> The Employer is a Delaware corporation and is engaged in the business of providing aerospace sustainment and support services for the U.S. Government at Moffett Field, California. During the past 12 months, the Employer purchased and received goods or services valued in excess of \$50,000, which originated from points outside the State of California.

4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Sections 2(6) and (7) of the Act.

5. Pursuant to Section 102.63(b)(1) of the Board's Rules and Regulations, prior to the hearing in this matter, the Employer submitted a Statement of Position. The Employer's Statement of Position shows that the Employer does not contest the appropriateness of the unit sought by Petitioner.

On June 4, 2015, the Region issued a Certification of Representative certifying the Union as the collective-bargaining representative of the employees under predecessor employer, L-3 Communications Army Sustainment, LLC, in the following appropriate unit:

"All full-time and regular part-time Aircraft Maintenance and Research and Development employees employed by the Employer at its facility located in Building 248 at NASA Ames Research Center, Moffett Airfield, California; excluding all materials specialists, project analysts, quality assurance leads, office clerical employees, guards, and supervisors as defined in the Act."

Unchallenged evidence presented at hearing, including sworn testimony and documentary evidence, indicates that in October 2016, the Employer became the successor and recognized the Union as the exclusive bargaining representative of its employees. Thereafter, the Employer and the Union engaged in collective bargaining and signed a successor agreement effective November 1, 2016 through September 1, 2018 (the Agreement). The unit description in Article 3.01 of the Agreement mirrors the certified unit, with some changes. Specifically, the agreed upon unit as reflected in Article 3.01 of the Agreement is as follows:

"All full-time and regular part-time Aircraft Maintenance, Research and Development employees to include (but not limited to): Aircraft Mechanic, Aircraft Electrician, Aircraft Sheet Metal Technician, Engineering Technician, Aviation Life Support Technician, Supply Technician, UAV (Unmanned Aircraft) Technicians, Quality Control, and lead workers. Excluding all of the employees in the all office employees [sic], guards, and supervisors employed at the Moffett Field location."

Further, Appendix A of the Agreement lists the following job classifications as being included in the recognized unit:

A/C Mechanic I, A/C Mechanic II, A/C Mechanic III, ALS/Hazmat/Calibration Technician, Avionics Technician I, Electronics Technician, Engineering Technician I, Engineering Technician II, GSE Mechanic, A/C Quality Control Inspector, Sheet Metal Mechanic, UAV/UAS Sheet Metal Mechanic.

The petition was timely filed on June 27, 2018, and includes a petitioned-for unit of all full-time and regular part-time Aircraft Maintenance and Research and Development employees employed by the Employer at its facility located in Building 248 at Moffett Federal Airfield.

Although the evidence presented at the hearing indicates that only two employees are presently filling any of these job classifications, there is no dispute that the recognized unit, as agreed upon by the Union and Employer, can be ascertained by considering the Agreement as a whole. Hence, the appropriate unit is one that accounts for all the classifications in the recognized unit as per the Agreement, not only the classifications currently occupied. It is well-settled that the appropriate unit in a decertification election must be coextensive with the certified or recognized bargaining unit. See *Campbell Soup Co.*, 111 NLRB 234 (1955).

In view of the foregoing and the record as a whole, I find the following employees constitute an appropriate unit for collective bargaining:

***Included:*** All full-time and regular part-time Aircraft Maintenance and Research and Development employees, including A/C Mechanics I, A/C Mechanics II, A/C Mechanics III, A/C Quality Control Inspectors, ALS/Hazmat/Calibration Technicians, Avionics Technicians I, Electronics Technicians, Engineering Technicians I, Engineering Technicians II, GSE Mechanics, Sheet Metal Mechanics, UAV/UAS Sheet Metal Mechanics, Aircraft Sheet Metal Technician, Aviation Life Support Technician, Supply Technician, UAV (Unmanned Aircraft) Technicians, Quality Control, and lead workers employed by the Employer at its facility located in Building 248 at NASA Ames Research Center, Moffett Airfield, California.

***Excluded:*** All other employees, office clerical employees, guards, and supervisors as defined in the Act.

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. Employees will vote whether or not they wish to be represented for purposes of collective bargaining by INTERNATIONAL ASSOCIATION OF MACHINISTS AND AEROSPACE WORKERS, LOCAL LODGE 2228, DISTRICT LODGE 725, AFL-CIO.

#### **A. Election Details**

The election will be held on August 3, 2018, from 11:30 a.m. -11:45 a.m. at the Conference Room in Building 248 located at NASA Ames Research Center, Moffett Field, California.

#### **B. Voting Eligibility**

Eligible to vote are those in the unit who were employed during the payroll period ending **July 15, 2018**, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off.

Employees engaged in an economic strike, who have retained their status as strikers and who have not been permanently replaced, are also eligible to vote. In addition, in an economic strike that commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements, are eligible to vote. Unit employees in the military services of the United States may vote if they appear in person at the polls.

Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

### C. Voter List

As required by Section 102.67(l) of the Board's Rules and Regulations, the Employer must provide the Regional Director and parties named in this decision a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cell telephone numbers) of all eligible voters.

To be timely filed and served, the list must be *received* by the regional director and the parties by **July 18, 2018**. The list must be accompanied by a certificate of service showing service on all parties. **The region will no longer serve the voter list.**

Unless the Employer certifies that it does not possess the capacity to produce the list in the required form, the list must be provided in a table in a Microsoft Word file (.doc or docx) or a file that is compatible with Microsoft Word (.doc or docx). The first column of the list must begin with each employee's last name and the list must be alphabetized (overall or by department) by last name. Because the list will be used during the election, the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at [www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015](http://www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015).

When feasible, the list shall be filed electronically with the Region and served electronically on the other parties named in this decision. The list may be electronically filed with the Region by using the E-filing system on the Agency's website at [www.nlr.gov](http://www.nlr.gov). Once the website is accessed, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions.

Failure to comply with the above requirements will be grounds for setting aside the election whenever proper and timely objections are filed. However, the Employer may not object to the failure to file or serve the list within the specified time or in the proper format if it is responsible for the failure.

No party shall use the voter list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

**D. Posting of Notices of Election**

Pursuant to Section 102.67(k) of the Board's Rules, the Employer must post copies of the Notice of Election accompanying this Decision in conspicuous places, including all places where notices to employees in the unit found appropriate are customarily posted. The Notice must be posted so all pages of the Notice are simultaneously visible. In addition, if the Employer customarily communicates electronically with some or all of the employees in the unit found appropriate, the Employer must also distribute the Notice of Election electronically to those employees. The Employer must post copies of the Notice at least 3 full working days prior to 12:01 a.m. of the day of the election and copies must remain posted until the end of the election. For purposes of posting, working day means an entire 24-hour period excluding Saturdays, Sundays, and holidays. However, a party shall be estopped from objecting to the nonposting of notices if it is responsible for the nonposting, and likewise shall be estopped from objecting to the nondistribution of notices if it is responsible for the nondistribution. Failure to follow the posting requirements set forth above will be grounds for setting aside the election if proper and timely objections are filed.

**RIGHT TO REQUEST REVIEW**

Pursuant to Section 102.67 of the Board's Rules and Regulations, a request for review may be filed with the Board at any time following the issuance of this Decision until 14 days after a final disposition of the proceeding by the Regional Director. Accordingly, a party is not precluded from filing a request for review of this decision after the election on the grounds that it did not file a request for review of this Decision prior to the election. The request for review must conform to the requirements of Section 102.67 of the Board's Rules and Regulations.

A request for review may be E-Filed through the Agency's website but may not be filed by facsimile. To E-File the request for review, go to [www.nlr.gov](http://www.nlr.gov), select E-File Documents, enter the NLRB Case Number, and follow the detailed instructions. If not E-Filed, the request for review should be addressed to the Executive Secretary, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570-0001. A party filing a request for review must serve a copy of the request on the other parties and file a copy with the Regional Director. A certificate of service must be filed with the Board together with the request for review.

Neither the filing of a request for review nor the Board's granting a request for review will stay the election in this matter unless specifically ordered by the Board.

Dated at Oakland, California this 16<sup>th</sup> day of July 2018.

/s/ Valerie Hardy-Mahoney

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VALERIE HARDY-MAHONEY  
REGIONAL DIRECTOR  
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